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Remarks

Claims 11, 26, 37-52 and 61-64 are canceled herein, with claims 1, 6, 10, 23, 34, 36, 57-60 and 65 previously canceled. Claims 3-5, 8, 9, 12, 20, 53 and 54 are amended and claims 66 and 67 are added. Claims 3-5, 8, 9, 13-16, 26, 28-31, 33, 35, 53-55, 66 and 67 will be pending for consideration upon entry of this amendment.

Applicants respectfully request entry of the amendments. No new subject matter is introduced by the amendments. In particular, new claim 66 corresponds to canceled claim 11 rewritten in independent form and new claim 67 corresponds to canceled claim 7 rewritten in independent form. The other amendments have been made to change dependency of the claims, where applicable, to the new claims. Accordingly, there is no subject matter being introduced for which search and examination has not already been undertaken by the Examiner. As such, no additional searching is necessary.

The following remarks are responsive to the Office action mailed September 8, 2005.

Response to Election/Restriction Requirements

In response to the election/restriction requirements, applicants have canceled non-elected claim 63 and claims 37-51 and 64 which depended therefrom. Claims 2, 17-19, 21, 22, 24, 25, 27, 32, 56 and 61 remain withdrawn from consideration and will be amended to depend from one of claims 55, 66 and 67 in the event that one of these claims is allowed.

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Response to Rejection of Claims under 35 USC §102

Claim 55

Claim 55 is directed to a disposable absorbent article comprising:

a first waist region;

a second waist region;

a crotch region extending longitudinally between the first and second waist regions, the absorbent article being foldable generally within the crotch region to configure said article with the first waist region in generally opposed relationship with second waist region;

an outer cover; and

at least one fastener comprising a single piece of flexible material having an anchor end, a user end opposite the anchor end, and an active fastening surface extending continuously thereon, at least a portion of the active fastening surface being located generally at the anchor end on the fastener for anchoring to said article generally at said first waist region and at least one other portion of the active fastening material being located generally at the user end on the fastener for fastening to said article generally at said second waist region to secure said article on a wearer, the active fastening surface being substantially covered by an active fastening material, the portion at the anchor end configured to have a first shear strength and the portion at the user end configured to have a second shear strength, the first shear strength being greater than the second shear strength.

As described in the present specification, the fastener is first attached at its anchor end to the first waist region (e.g., the back waist region) of the absorbent article. With the anchor end attached to the first waist region, the user end

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of the single piece fastener is pulled toward the second waist region (e.g., the front waist region) of the absorbent article to snugly fit the article about the wearer's waist. The user end of the fastener is then attached to the second waist region to secure the article on the wearer. See page 19, lines 17-21.

However, pulling on the user end of the single piece fastener in this manner creates a greater stress tension on the attached anchor end. To prevent the anchor end of the fastener from peeling away and detaching from the second waist region, the anchor end may need to provide greater shear strength. Page 19, lines 21-27.

The present specification thus makes clear that 1) the anchor end and user end of the fastener are on the same single piece of material; 2) the "shear strength" of the respective anchor end and user end as recited in claim 55 refers to the shear strength of the attachment between the anchor end and the first waist region of the article and between the user end and the second waist region of the article, respectively; and 3) that the shear strength provided by the anchor end of the fastener is greater than the shear strength provided by the user end of the fastener.

Claim 55 is submitted to be unanticipated by and patentable over the references of record, and in particular U.S. Patent No. 5,386,595 (Kuen et al.), in that whether considered alone or in combination the references fail to show or suggest all of the features recited in claim 55 including a single piece fastener having an anchor end and a user end, each having an active fastening surface for attachment to the article at first and second waist regions, wherein the portion of the fastener at the anchor end is configured to have a first shear strength and the portion of the fastener at the user end is configured to have a

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second shear strength with the first shear strength being greater than the second shear strength.

Kuen et al. disclose (with respect to Fig. 7 thereof, as relied upon by the Examiner) a garment (70) having a garment attachment system. In the embodiment illustrated in Fig. 7, the garment attachment system includes two front hook patches (72A, 72B) secured to the front waist region of the garment and two back hook patches (74A, 74B) secured to the back waist region of the garment. A pair of strap members (76A, 76B) each have a looped material face (78) and a uniform width, for example, of 1 in. Column 14, lines 42-43 and lines 37-39. In use, the opposite ends of each strap (76A, 76B) are respectively attached to the hook patches at the front and back waist regions to secure the garment on the wearer.

Kuen et al. fail to disclose that the strap (e.g., strap 76A) has an anchor end configured to have a first shear strength and a user end configured to have a second shear strength wherein the first shear strength is greater than the second shear strength. In particular, Kuen et al. disclose (not only in the embodiment of Fig. 7, but in every embodiment of the reference) that the strap (76A) is constructed the same at both longitudinal ends. For example, in the embodiment of Fig. 7, the loop material is the same at both ends of the strap (76A). In the embodiments of Figs. 1 and 8, the hook material is the same size and configuration at both ends of the strap. See, e.g., column 10, lines 34-47 in which Kuen et al. teach that hook patches (56) at both ends of the strap secure to both attachment pads (42, 44, e.g., at the respective front and back waist regions of the garment) with the same total shear force.

Accordingly, the shear strength provided by the attachment of one end of the strap to the back waist region of the article

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is the same as the shear strength provided by the attachment of the opposite end of the strap to the front waist region. As such, the strap of Kuen et al. cannot have an anchor end and a user end with the shear strength provided by the anchor end upon attachment to the first waist region greater than the shear strength provided by the user end upon attachment to the second waist region as recited in claim 1.

In rejecting claim 55, the final Office action takes the position (at pages 5 and 6) that the article of Kuen et al. must be identical to than that claimed (e.g., the anchor end having a shear strength greater than that of the user end) because otherwise a user would not be able to remove the fastener from the garment without also removing the fastener itself. The final Office action further states that the surface area of the back of the fastener (anchor end) is different from the surface on the front of the fastener (user end) in the user end of the fastener has a plurality of hooks joined thereto.

Applicants are unclear as to what the Examiner is characterizing in Kuen et al. as the claimed fastener, anchor end and user end. While the final Office action asserts that each element of claim 55 is found in Kuen et al., there is no explanation at all as to what elements of Kuen et al. the Examiner equates to the elements recited in claim 55. As best understood, however, in referring to Fig. 7 it appears that the Examiner is taking the position that the fasteners 72A and 74A can be characterized as the single piece fastener recited in claim 1, with the back surface of the fastener (secured to the outer cover of the garment) defining an anchor end and the hook surface defining a user end.

This characterization, respectfully, cannot be correct. Claim 55 particularly recites a single piece fastener that

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connects at its anchor end to the first waist region and at its opposite user end to the second waist region. The fasteners 72A, 74A in Fig. 7 of Kuen et al. cannot be a single piece fastener that connects to both the front and back waist regions of the garment. Moreover, the term "ends" in claim 55 referring to the anchor end and user end clearly refer to longitudinal ends of the fastener and not to front and back faces of the fastener.

The only element of Kuen et al. that can be characterized as a single-piece fastener that connects to both the front and back waist regions is the strap (e.g., 76A, 76B). However, as discussed above, the strap is of the same construction at its opposite ends and therefore cannot provide the shear strength differential between its ends as recited in claim 55. As is also discussed above, the shear strength recited in claim 1 clearly refers to the shear strength between the ends of the fastener and front and back waist regions of the article, and not to the attachment between a landing material to the front and back waist regions. Kuen et al. use the term shear force at column 10, lines 34-47 in the same manner.

For the above reasons, claim 55 is submitted to unanticipated by and patentable over the references of record.

Claims 28-31, 33, and 35 depend either directly or indirectly from claim 55 and are submitted to be patentable over the references of record for the same reasons as claim 55.

Discussion of New Claims

Claim 66

Claim 66 corresponds to dependent claim 11 (canceled) rewritten into independent form including all of the elements of claim 52 (canceled). In particular, new claim 66 includes the recitation that the recited fastener has an anchor end and a

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user end, with the anchor end configured to provide a first shear strength and a user end configured to provide a second shear strength. The anchor and user ends differ such that the first shear strength is greater than the second shear strength.

Claim 66 is submitted to be unanticipated by and patentable over the references of record, and in particular Kuen et al., for substantially the same reasons as claim 55. That is, whether considered alone or in combination the references fail to show or otherwise even suggest a single piece fastener having an anchor end and a user end, each having an active fastening surface for attachment to the article at first and second waist regions, wherein the anchor end is configured to have a first shear strength and the user end is configured to have a second shear strength with the ends differing so that the first shear strength is greater than the second shear strength.

Claims 3-5, 12-16, 20, 53 and 54 are amended to depend either directly or indirectly from claim 66 and are submitted to be patentable over the references of record for at least the same reasons as claim 66.

New claim 67

New claim 67 corresponds to dependent claim 7 (canceled) rewritten into independent form including all of the elements of claim 52 (canceled). In particular, new claim 67 is directed to a disposable absorbent article comprising:

a first waist region;

a second waist region;

a crotch region extending longitudinally between the first and second waist regions, the absorbent article being foldable generally within the crotch region to configure said article

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with the first waist region in generally opposed relationship with the second waist region; and

at least one fastener comprising a single piece of flexible material having an active fastening surface extending continuously thereon, at least a portion of the active fastening surface being located on the fastener for anchoring to said article on landing material located generally at said first waist region and at least one other portion of the active fastening material being located on the fastener for fastening to said article on landing material located generally at said second waist region to secure said article on a wearer, the active fastening surface being covered substantially entirely by an active fastening material different than said landing material, the active fastening material comprising a plurality of hooks, the landing material comprising a plurality of loops.

Claim 7 was rejected in the final Office action as being obvious in view of Kuen et al. However, claim 7 is submitted to be non-obvious and patentable over the references of record, and in particular Kuen et al., in that whether considered alone or in combination, the references fail to show or suggest a fastener being covered substantially entirely by an active fastening material different than a landing material and comprised of a plurality of hooks.

As acknowledged by the Office in its rejection of claim 7, Kuen et al. do not teach a fastener wherein the active fastening material comprises a plurality of hooks. Instead, Kuen et al. disclose in Fig. 7 the active fastening material comprising a plurality of loops that cover the entire surface. Moreover, Kuen et al disclose in the embodiments of Figs. 1 and 8 that the strap (e.g., strap 40) may instead have hook patches 56 at the ends of the strap. The hook patches do not cover the entire

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active surface of the strap. There is no suggestion found anywhere in Kuen et al. for covering the entire active surface of the strap with hooks in the same manner as the loops in the embodiment of Fig. 7. This because the strap and garment are configured such that the active (e.g., inward facing) surface of the strap faces the wearer once the strap is attached to the garment. If the entire active surface of the strap were covered with hooks, the hooks along the portion of the strap between the front and back of the garment (e.g., exposed to the wearer) would rub against and irritate the wearer. Thus, one would not be motivated by Kuen et al. to cover the entire active surface of the strap with a plurality of hooks as recited in new claim 67 (e.g., canceled claim 7).

For these reasons, claim 67 is submitted to be non-obvious and patentable over the references of record.

Claims 8 and 9 depend directly from claim 67 and are submitted to be patentable for at least the same reasons as claim 67.

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Conclusion

In view of the foregoing, allowance of claims 3-5, 8, 9, 13-16, 26, 28-31, 33, 35, 53-55, 66 and 67 is respectfully requested.

The Commissioner is hereby authorized to charge any underpayment and credit any overpayment of government fees to Deposit Account No. 19-1345.

Respectfully submitted,



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